

# **EXHIBIT 2**

Mark C. Mao, CA Bar No. 236165  
Sean P. Rodriguez, CA Bar No. 262437  
Beko Richardson, CA Bar No. 238027  
**BOIES SCHILLER FLEXNER LLP**  
44 Montgomery St., 41<sup>st</sup> Floor  
San Francisco, CA 94104  
Tel.: (415) 293-6800  
Fax: (415) 293-6899  
mmao@bsflp.com  
srodriguez@bsflp.com  
brichardson@bsflp.com

James Lee (admitted *pro hac vice*)  
Rossana Baeza (admitted *pro hac vice*)  
**BOIES SCHILLER FLEXNER LLP**  
100 SE 2<sup>nd</sup> St., 28<sup>th</sup> Floor  
Miami, FL 33131  
Tel.: (305) 539-8400  
Fax: (303) 539-1307  
jlee@bsflp.com  
rbaeza@bsflp.com

Amanda K. Bonn, CA Bar No. 270891  
**SUSMAN GODFREY L.L.P.**  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA. 90067  
Tel: (310) 789-3100  
Fax: (310) 789-3150  
abonn@susmangodfrey.com

*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

CHASOM BROWN, MARIA NGUYEN,  
WILLIAM BYATT, JEREMY DAVIS, and  
CHRISTOPHER CASTILLO, individually and  
on behalf of all other similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

William S. Carmody (admitted *pro hac vice*)  
Shawn Rabin (admitted *pro hac vice*)  
Steven M. Shepard (admitted *pro hac vice*)  
**SUSMAN GODFREY L.L.P.**  
1301 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, NY 10019-6023  
Tel.: (212) 336-8330  
Fax: (212) 336-8340  
bcarmody@susmangodfrey.com  
srabin@susmangodfrey.com  
sshepard@susmangodfrey.com

John A. Yanchunis (admitted *pro hac vice*)  
Ryan J. McGee (admitted *pro hac vice*)  
**MORGAN & MORGAN**  
201 N. Franklin Street, 7<sup>th</sup> Floor  
Tampa, FL 33602  
Tel.: (813) 223-5505  
jyanchunis@forthepeople.com  
rmcgee@forthepeople.com

Case No. 5:20-cv-03664-LHK

**PLAINTIFFS' REQUESTS FOR  
ADMISSIONS TO DEFENDANT  
GOOGLE LLC, SET ONE**

Propounding Party: Plaintiffs Chasom Brown, Maria Nguyen, William Byatt, Jeremy Davis,  
and Christopher Castillo

Responding Party: Defendant Google LLC

Set No.: One

Pursuant to Federal Rules of Civil Procedure 26 and 36, Plaintiffs Chasom Brown, Maria Nguyen, William Byatt, Jeremy Davis, and Christopher Castillo (“Plaintiffs”) hereby submit the following requests for admissions to Defendant Google LLC (“Google”). Each request is to be read in accordance with the Definitions and Instructions that follow. Responses are due within thirty (30) days of service.

### **DEFINITIONS**

1. The term “ALL” includes the word “ANY,” and vice versa.

2. The term “COMMUNICATION” is to be construed in the broadest possible sense, and includes, but is not limited to, any transmission of information in any form and of any kind, including electronic, oral, or written transmission, whether such was by chance, prearranged, formal or informal, including conversations in person, notes of conversations, letters, electronic mail, telephone conversations, facsimile transmissions, correspondence or memoranda, formal statements, press releases or newspaper articles.

3. The term “CONCERNING” includes addressing, analyzing, concerning, constituting, containing, commenting on, discussing, describing, identifying, in connection with, referring to, reflecting, relating, relating to, reporting on, stating, or dealing with, in whole or in part, in addition to their customary and usual meanings, and shall be construed in the broadest sense possible.

4. The term “GOOGLE” means GOOGLE LLC and any of its directors, officers, consultants, agents, representatives, predecessors in interest, subsidiaries, assignees, licensees, employees, attorneys and any other persons acting on GOOGLE LLC’S behalf, including contractors.

5. The term “INCLUDE” or “INCLUDING” means “include, but not limited to” or “including, but not limited to.”

6. The term “PERSON(S)” includes without limitation any natural person, firm, association, organization, partnership, business, trust, corporation, or public entity. Any reference to a PERSON that is a business entity and is not otherwise defined INCLUDES that PERSON’s predecessors, if any (INCLUDING any pre-existing PERSON that at any time became part of that entity after merger or acquisition), successors, parents divisions, subsidiaries, affiliates, franchisors and franchisees, and any other PERSON acting for or on behalf of them.

7. The term “PLAINTIFFS” mean Chasom Brown, Maria Nguyen, William Byatt, Jeremy Davis, and Christopher Castillo.

8. The term “REGULATORS” includes all government agencies and regulators that have requested documents or information from Google and/or initiated any investigation or action concerning Google’s data collection practices and disclosures, including without limitation the Department of Justice, the Federal Trade Commission, the Arizona Attorney General (*State of Arizona ex rel. Mark Brnovich, Attorney General v. Google LLC*, No. CV 2020-006219 (Ariz. Superior Ct. 2020)), the Attorneys General of Texas and California, the Australian Competition & Consumer Commission, and the Commission Nationale de l’Informatique et des Libertés (“CNIL”). For purposes of this Request, Documents should be read broadly to include any written responses and privilege logs submitted by Google to the Regulators.

9. The term “YOU” or “YOUR” means or refers to DEFENDANT GOOGLE LLC, and any of his or their attorneys, agents, representatives, predecessors, successors, assigns, and any PERSONs acting or purporting to act on his or their behalf.

### **GENERAL INSTRUCTIONS**

1. For each of the following requests, respond either “Admit” or “Deny.”

2. If objection is made, the reasons therefore shall be stated.

3. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter.

4. A denial shall fairly meet the substance of the requested admission and when good faith requires that a party qualify an answer or deny only part of the matter of which an admission is requested, the party shall specify so much if it is true and qualify or deny the remainder..

5. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.

6. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone object to the request; the responding party must set forth the reasons why the party cannot admit or deny.

7. For purposes of reading, interpreting, or construing the scope of the DEFINITIONS, INSTRUCTIONS, and REQUESTS, all of the terms shall be given their most expansive and inclusive interpretation. This INCLUDES the following:

- (a) The singular form of a word shall be interpreted as plural and vice versa.
- (b) “And,” “or,” as well as “and/or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Request any response that might otherwise be construed to be outside the scope of the Request.
- (c) “All,” “each” and “any” shall be construed as “all, each, and any.”
- (d) The masculine form of a word shall be interpreted as and shall include the feminine and vice versa.
- (e) The use of a verb in any particular tense shall be construed as the use of the verb in all other tenses as necessary to bring within the scope of the Request any response that might otherwise be construed to be outside the scope of the Request.

8. Your obligations under these requests for admissions are intended to be continuing; therefore, if you obtain information or evidence that modifies any answer, you are required to submit an amended response.

#### **REQUESTS FOR ADMISSIONS, SET ONE**

##### **REQUEST FOR ADMISISON NO. 1:**

Since at least June 1, 2016, Google has been collecting user data from users’ private

browsing mode communications, including Incognito mode communications.

**REQUEST FOR ADMISSION NO. 2:**

Since at least June 1, 2016, when users in a private browsing mode (such as Incognito mode) visit a website that uses Google advertising services, a Google script attempts to cause (and in fact has caused) users' browsers to send data to Google's servers.

**REQUEST FOR ADMISSION NO. 3:**

Since at least June 1, 2016, Google has not disclosed to users that when users in a private browsing mode (including Incognito mode) visit a website that uses Google advertising services, a Google script attempts to cause (and in fact has caused) users' browsers to send user data to Google's servers.

**REQUEST FOR ADMISSION NO. 4:**

Since at least June 1, 2016, nothing on Google's Incognito mode splash screen disclosed that Google would collect data generated by users' Incognito mode web activity.

**REQUEST FOR ADMISSION NO. 5:**

Since at least June 1, 2016, nothing on Google's Incognito mode splash screen disclosed that Google could track a user while he or she is in Incognito mode.

**REQUEST FOR ADMISSION NO. 6:**

Since at least June 1, 2016, the data collected by Google in connection with users' private browsing mode communications (including Incognito mode communications) has included without limitation the user's IP address, URLs identifying what the user is viewing, referral URLs that identify what a user last viewed, and user search queries.

**REQUEST FOR ADMISSION NO. 7:**

Since at least June 1, 2016, Google has been creating profiles for targeted advertising using data collected in connection with private browsing mode communications, including Incognito mode communications.

**REQUEST FOR ADMISSION NO. 8:**

Since at least June 1, 2016, Google has not disclosed to users that it has been creating profiles for targeted advertising using data collected while users are in a private browsing mode.

**REQUEST FOR ADMISSION NO. 9:**

Since at least June 1, 2016, Google has attempted to associate (and in fact has associated) data generated by users' private browsing mode activities with users' individual Google accounts.

**REQUEST FOR ADMISSION NO. 10:**

Since at least June 1, 2016, Google has not disclosed that it has attempted to associate (and in fact has associated) data generated by users' private browsing mode activities with users' individual Google accounts.

**REQUEST FOR ADMISSION NO. 11:**

Since at least June 1, 2016, Google has been earning advertising revenues using data that Google collected in connection with private browsing mode communications, including Incognito mode communications.

Dated: October 7, 2020

Respectfully submitted,

**BOIES SCHILLER FLEXNER LLP**

By:   
Mark C. Mao

Mark C. Mao, CA Bar No. 236165  
Sean P. Rodriguez, CA Bar No. 262437  
Beko Richardson, CA Bar No. 238027  
**BOIES SCHILLER FLEXNER LLP**  
44 Montgomery St., 41st Floor  
San Francisco, CA 94104  
Tel.: (415) 293-6800  
Fax: (415) 293-6899  
mmao@bsflp.com  
srodriguez@bsflp.com  
brichardson@bsflp.com

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100 SE 2nd St., 28th Floor  
Miami, FL 33131  
Tel.: (305) 539-8400  
Fax: (303) 539-1307

jlee@bsfllp.com  
rbaeza@bsfllp.com

Amanda K. Bonn, CA Bar No. 270891  
**SUSMAN GODFREY L.L.P.**  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA. 90067  
Tel: (310) 789-3100  
Fax: (310) 789-3150  
abonn@susmangodfrey.com

William S. Carmody (admitted *pro hac vice*)  
Shawn Rabin (admitted *pro hac vice*)  
Steven M. Shepard (admitted *pro hac vice*)  
**SUSMAN GODFREY L.L.P.**  
1301 Avenue of the Americas, 32nd Floor  
New York, NY 10019-6023  
Tel.: (212) 336-8330  
Fax: (212) 336-8340  
bcarmody@susmangodfrey.com  
srabin@susmangodfrey.com  
sshepard@susmangodfrey.com

John A. Yanchunis (admitted *pro hac vice*)  
Ryan J. McGee (admitted *pro hac vice*)  
**MORGAN & MORGAN**  
201 N. Franklin Street, 7th Floor  
Tampa, FL 33602  
Tel.: (813) 223-5505  
jyanchunis@forthepeople.com  
rmcgee@forthepeople.com

*Attorneys for Plaintiffs*



**PROOF OF SERVICE**

I, Vicky L. Ayala, declare:

I am a citizen of the United States and employed in the City and County of San Francisco, CA. I am over the age of 18 and not a party to the within action; my business address is 44 Montgomery St., 41<sup>st</sup> Floor, San Francisco, CA 94104.

On October 7, 2020, I served the following document(s) described as:

**PLAINTIFFS' REQUESTS FOR ADMISSIONS TO DEFENDANT**

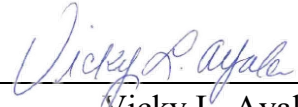
**GOOGLE, LLC, SET ONE**

- ☐ **BY FACSIMILE TRANSMISSION:** As follows: The papers have been transmitted to a facsimile machine by the person on whom it is served at the facsimile machine telephone number as last given by that person on any document which he or she has filed in the cause and served on the party making the service. The copy of the notice or other paper served by facsimile transmission shall bear a notation of the date and place of transmission and the facsimile telephone number to which transmitted or be accompanied by an unsigned copy of the affidavit or certificate of transmission which shall contain the facsimile telephone number to which the notice of other paper was transmitted to the addressee(s).
- ☐ **BY MAIL:** As follows: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at San Francisco, CA, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **BY OVERNIGHT MAIL:** As follows: I am readily familiar with the firm's practice of collection and processing correspondence for overnight mailing. Under that practice, it would be deposited with overnight mail on that same day prepaid at San Francisco, CA in the ordinary course of business.
- ☒ **BY ELECTRONIC MAIL TRANSMISSION:** By electronic mail transmission from vayala@bsfllp.com on October 7, 2020, by transmitting a PDF format copy of such document(s) to each such person at the e-mail address(es) listed below their address(es). The document(s) was/were transmitted by electronic transmission and such transmission was reported as complete and without error.

1 2 3 4 5	Andrew H. Schapiro ( <i>pro hac vice</i> ) Quinn Emanuel Urquhart & Sullivan, LLP 191 N. Wacker Drive, Suite 2700 Chicago, IL 60606 Tel: 312-705-7400 Fax: 312-705-7401 andrewschapiro@quinnemanuel.com	<i>Attorney for Defendant</i>
6 7 8 9 10	Stephen A. Broome Viola Trebicka Quinn Emanuel Urquhart & Sullivan, LLP 865 S. Figueroa Street, 10 <sup>th</sup> Floor Los Angeles, CA 90017 Tel: 213-443-3000 Fax: 213-443-3100 stephenbroome@quinnemanuel.com violatrebicka@quinnemanuel.com	<i>Attorneys for Defendant</i>
11 12 13 14 15	Diane M. Doolittle Thao Thai Quinn Emanuel Urquhart & Sullivan, LLP 555 Twin Dolphin Drive, 5 <sup>th</sup> Floor Redwood Shores, CA 94065 Tel: 650-801-5000 Fax: 650-801-5100 dianedoolittle@quinnemanuel.com thaothai@quinnemanuel.com	<i>Attorneys for Defendant</i>
16 17 18 19 20	William Burck ( <i>pro hac vice</i> ) Josef Ansorge ( <i>pro hac vice</i> ) Quinn Emanuel Urquhart & Sullivan, LLP 1300 I Street NW, Suite 900 Washington, D.C., 20005 Tel: 202-538-8000 Fax: 202-538-8100 williamburck@quinnemanuel.com josefansorge@quinnemanuel.com	<i>Attorneys for Defendant</i>
21 22 23 24	Jonathan Tse Quinn Emanuel Urquhart & Sullivan, LLP 50 California Street, 22 <sup>nd</sup> Floor San Francisco, CA 94111 Tel: 415-875-6600 Fax: 415-875-6700 jonathantse@quinnemanuel.com	<i>Attorney for Defendant</i>

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 7, 2020, at San Francisco, CA.



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Vicky L. Ayala

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